THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19462 of 2005

02.09.2005

Between:

K.Sham Rao, S/o.Kishan Rao, Agriculturist,

Ramtake village, Mudhole Mandal, Adilabad District.

… Petitioner

AND

1. The Special Dy. Collector/Land Acquisition Officer,

Sriram Sagar Project, Pochampadu, Nizamabad District

And three others.

… Respondents

ORDER:

The petitioner claims to be a co-sharer in the land admeasuring Acs.1.34 gts., in Survey No.91/A of Ramtek village, Mudhole Mandal, Adilabad District. The said land was acquired for public purpose, namely, construction of Silt Arresting Tank at Ramtek village. The first respondent conducted enquiry and passed an award in December 2004 in favour of Smt.Pedda Bhuma Bai, the fourth respondent herein. The petitioner approached the first respondent on 07.2.2005 claiming proportionate share in the compensation. According to the petitioner, the property acquired is not exclusive property of the fourth respondent and that it is a joint family property. Be it noted that the fourth respondent is none other than the paternal aunt of the petitioner. Be that as it is, the Land Acquisition Officer came to the conclusion that fourth respondent is alone entitled for compensation amount of Rs.1,00,375/-. When the cheque was about to be given to fourth respondent, the petitioner made a representation on 07.2.2005. In the meanwhile, the cheque was given to the fourth respondent on 25.8.2005. Therefore, the petitioner filed the present writ petition praying for the following relief:

> For the reasons stated in the accompanying affidavit, the petitioner prays that the Hon'ble Court may be pleased to issue a direction or an order, or a writ more particularly one in the nature of writ of Mandamus, declaring the action of the 1strespondentinissuing the cheque to the fourth respondent for Rs.1,00,375/- bearing cheque No.056023, dt.25.8.2005 given towards the acquisition of Survey No.91/A, an extent of Ac.1.34 Gts., situate at Ramtek Village, Mudhole Mandal, Adilabad District, the compensation amount for

thepurpose of formation of Silt Arresting Tank at Ramtek Village, Mudhole Mandal, Adilabad District, without passing any orders on the three representations given by the writ petitioner as illegal, arbitrary and unconstitutional and consequently direct the 1st respondent to dispose of the three representations Dt.7.2.2005, 24.8.2005, and 29.8.2005 submitted by the writ petitioner at the earliest and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Having regard to the provisions of Land Acquisition Act, 1894 (the Act), which contain the procedure for adjudicating the rival claims as well as apportionment of the compensation for the land acquired, the above prayer in clear terms cannot be granted. Indeed, such a writ petition is not maintainable. The petitioner's remedy lies in approaching the first respondent and seeking a reference to civil Court under Section 30 of the Act or if the amount is already withdrawn by the fourth respondent to sue her for proportionate share. Liberty is given to the petitioner to approach the first respondent or file suit against the fourth respondent.

The writ petition, with the above observations, is dismissed. No costs.

_____

(**V.V.S.RAO,J**)

September 02, 2005.

NOTE:

Issue order copy in one week.

(B/o)

YS